

1  
2  
3  
4  
5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

7 SHANNON BRUCE MORLEY,

8 Plaintiff,

9 v.

10 SHARON BOGINSKE and MARIN FOX  
11 HIGHT,

12 Defendants.

No. C10-5022 RBL/KLS

ORDER DENYING MOTION TO  
COMPEL

13 Before the Court is Plaintiff's *ex parte* Motion Requesting Records from Defendant  
14 Without Payment. ECF No. 40. The Court finds that the motion should be denied because  
15 Plaintiff did not serve counsel for Defendants with the motion and the motion does not include a  
16 certification that Plaintiff conferred with counsel for Defendants before he filed his motion.

17 While a party may apply to the court for an order compelling discovery "upon reasonable  
18 notice to other parties and all persons affected thereby," the motion must also include a  
19 certification that the movant has in good faith conferred or attempted to confer with the person or  
20 party failing to make the discovery in an effort to secure the information or material without  
21 court intervention." Fed. R. Civ. P. 37(a)(2)(B). In addition, "[a] good faith effort to confer with  
22 a party or person not making a disclosure or discovery requires a face-to-face meeting or a  
23 telephonic conference." Local Rule CR 37(a)(2)(A).  
24  
25  
26

1 The Court anticipates that the parties will confer and make a good faith effort to resolve  
2 this discovery dispute without Court interference. If the parties cannot amicably resolve this  
3 issue, Plaintiff may file a motion to compel, and shall include a certification stating that their  
4 efforts were unsuccessful, and shall identify those areas of disagreement that remain unresolved.  
5 The court will not address any motion which lacks such a certification. Additionally, Plaintiff  
6 must serve counsel for Defendants with any motion filed with this Court. The Court will not  
7 entertain any *ex parte* motions.  
8

9 Accordingly, it is **ORDERED**:

10 (1) Plaintiff's motion for records (ECF No. 40) is **DENIED**.

11 (2) The Clerk of the Court shall send a copy of this Order to Plaintiff and to counsel  
12 for Defendants.  
13

14 **DATED** this 16th day of June, 2011.

15   
16 Karen L. Strombom  
17 United States Magistrate Judge  
18  
19  
20  
21  
22  
23  
24  
25  
26